

HALIFAX

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Item No. 14.1.1
Halifax Regional Council
February 12, 2019

TO: Mayor Savage and Members of Halifax Regional Council

SUBMITTED BY: Original Signed by 
Jane Fraser, Director Finance, Asset Management & ICT

Original Signed by 
Jacques Dubé, Chief Administrative Officer

DATE: January 18, 2019

SUBJECT: **Administrative Order 50: Community Interest Category – PID 00062604**
10 Monique Avenue, Dartmouth

ORIGIN

On July 29, 2014 Regional Council passed the following motion:

Declare Gray, Bowles, and Lebrun arenas surplus to recreation needs upon the completion of the Dartmouth 4-Pad arena and direct staff to review the properties under Administrative Order 50.

On June 20, 2017 - Regional Council approved disposal through the Community Interest Category of Administrative Order 50. The Gray Arena was to operate should the arena be required pursuant to decisions regarding construction timelines at Cole Harbour Place. The Motion passed included the following item:

THAT Halifax Regional Council:

1. Categorize the Gray Arena as "Community Interest" under Administrative Order 50 and undertake the disposal process for the property;

December 9, 2017 – Call for Submissions of Interest was issued for the subject property with a June 4, 2018, submission deadline.

LEGISLATIVE AUTHORITY

- *Halifax Regional Municipality Charter* (HRM Charter), 2008, S.N.S c.39, section 63 as follows:
 - (1) The Municipality may sell or lease property at a price less than market value to a non-profit organization that Council considers to be carrying on an activity that is beneficial to the Municipality.
 - (2) A resolution to sell or lease property referred to in subsection (1) at less than market value shall be passed by a two-thirds majority of the Council present and voting.
 - (3) Where the Council proposes to sell property referred to in subsection (1) valued at more than ten thousand dollars at less than market value, the Council shall first hold a public hearing respecting the sale

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- (4) The Council shall advertise the public hearing at least twice, in a newspaper circulating in the Municipality, the first notice to appear at least fourteen days before the hearing.
- (5) Notice of the public hearing shall include the date, time and place of the hearing, the location of the real property or description of the tangible personal property, the estimated value of the property and the purpose of the sale.

- *Administrative Order 50, the Disposal of Surplus Real Property Administrative Order. (Administrative Order 50)*

Clause 2(2)(b)

(2) The Municipality will dispose of real property Council determines is no longer required for the purposes of the Municipality. Staff will identify surplus properties by the following categories:

...

Community Interest

- (b) Properties known to have potential for community use, in particular where:
- (i) there has been a prior community or institutional use of the property; or
 - (ii) by location or scarcity of available property the consideration would reasonably arise.

Section 19 of Schedule 1 of Administrative Order 50

- (1) Upon receiving a recommendation, Council may consider any alternative method of disposing of community interest property if:
- (a) there are no applications by eligible non-profit organizations received within the applicable period of time for the disposal method initially selected; or
 - (b) Council rejects all the complete applications the Municipality received from eligible non-profit organizations.
- (2) If subsection 1 applies, notwithstanding Administrative Order One respecting rescission, Council may by majority vote:
- (a) direct another method of disposal;
 - (b) reclassify the property in accordance with this Administrative Order and dispose of the property in accordance with that reclassification; or
 - (c) subject to subsection 3, take such action as Council considers appropriate.
- (3) A motion to rescind the resolution declaring the property surplus shall be in accordance with Administrative Order One.

- *Administrative Order 1 The Procedure of the Council Administrative Order.*

Section 63

- (1) A motion of rescission shall not be made at the same meeting when the matter is decided but may be put at any subsequent meeting.
- (2) A motion of rescission may be put by any Member regardless of how the Member voted on the original matter.
- (3) At a subsequent meeting of the Council, the giver of such notice, or in the Member's absence any other Member on the Member's behalf, may put forward the motion of rescission.
- (4) A motion of rescission must be seconded.
- (5) A motion of rescission is debateable as to the merits of the question which is proposed to be rescinded.
- (6) A motion of rescission is mendable.
- (7) A motion of rescission shall be passed by a vote of two-thirds (2/3^{rds}) of the Members present and voting.
- *Administrative Order 56 HRM Asset Naming Policy.*

RECOMMENDATION

It is recommended that Halifax Regional Council:

1. Decline the offer of purchase from Soccer Nova Scotia; and
2. Re-categorize the property from Community Interest property to Ordinary Sale Clause 2(2)(c) of Administrative Order 50; and
3. Direct staff to pursue disposal of the subject property for market value in accordance with the re-categorization.

BACKGROUND

Administrative Order 50 is a standardized process for the sale of surplus real property according to the intent of the disposal. Clause 2(2)(b) defines Community Interest properties as known to have potential for community use, in particular where:

- (i) there has been a prior community or institutional use of the property; or
- (ii) by location or scarcity of available property the consideration would reasonably arise.

Clause 19(1)(2): If Council rejects all the complete applications received from eligible non-profits, Council may re-categorize the property and direct staff to proceed to sell the property at market value.

Property Description: The subject property is a corner lot at the intersection of Monique Avenue and Farthington Place, Dartmouth. The site has a land area of 4.7 acres (206,910 square feet). Improvements to the site include a 27,800 square feet ice rink (Gerald B. Gray Memorial Arena) believed to have been constructed in 1975. In 2004, changing rooms were added at a cost of \$285,000. The site also includes a large paved parking lot (approximately 64 spaces), a children's playground, and a former tennis court that has been used for a temporary skateboarding area and encumbered by a shipping container used for private storage. The site is serviced with municipal water and sewer with road access from both Monique Avenue and Farthington Place.

Zoning: The property is zoned P (Park). This zoning is highly prescriptive and permits only public parks, recreational fields and facilities, a golf course, cemetery, and accessory uses to any of these uses. Consequently, use of the property by a broader range of non-profit interests would require a re-zoning application and could incur substantial holding costs pending a decision. Council could elect to re-zone the property prior to disposal to enhance marketability and value or through any subsequent development application.

Property Valuation and Assessment: In 2018, HRM retained Alderney Real Estate Appraisals to provide an appraisal of the subject property. The appraised value is included in a confidential companion In Camera report to Regional Council dated August 21, 2018.

In 2018, the assessed value of the property was \$4,063,900. The value is primarily in the land (\$3,418,700) which is appreciating in value whereas the building (\$703,500) is depreciating in value due to age and future re-capitalization. The current value might also be suppressed by the highly restrictive zoning. Based on municipal government ownership and operation the building is assessed Commercial Exempt. A change in ownership would trigger re-assessment and the property will become taxable. Any change to re-zoning could increase the assessed value and subsequent tax revenue potential.

History of Ownership and Property Use: In 1965, the City of Dartmouth purchased land within the Caparra Terrace sub-division from a private party to be used for the construction of a public school. The school was subsequently located in a different area and the land was developed for an arena commencing in 1972. The building was named the Gerald B. Gray Memorial Arena in honor of a community member active in both the volunteer fire service and the sport of hockey. Administrative Order 56 is silent on the

issue of removing a name from a municipal asset; presumably any such provision would be included within a contractual agreement. As such, there is no legal obligation on the part of a new owner to retain the name or memorialize a defined element located on the site.

At amalgamation title ceded to Halifax Regional Municipality (“HRM”) and the facility has been operated by the Municipality. There are no lease or license agreements in effect. With the opening of the RBC Centre in Dartmouth, the facility was intended to cease operation. However, with necessary repairs required to Cole Harbour Place arena, programming was relocated to the Gray Arena and facility operations continued until the upgrades to the Cole Harbour Place arena were completed. The facility’s amenities primarily serve sports teams and leagues (ice hockey, skating, ringette), sport tournaments, and instructional classes. In the summer season the venue is used for hourly rentals. Members of the public have access to a playground and a small, temporary skateboard ramp.

Disposal Process: The rationalization and consolidation of municipal indoor ice surfaces began in 2007 as part of HRM’s Community Facility Master Plan. In April of 2014, Council approved the commencement of planning for the construction of a 4-Pad arena in Dartmouth intended as a replacement for the aging Gray, Bowles, Lebrun, and Centennial arenas. It was envisaged under the Strategic Capital Plan presented to Regional Council on July 29, 2014, that at least some of the construction costs for the new 4-Pad Arena would be funded from proceeds from the sale of de-commissioned arenas.

In 2015, the Harbour-East Marine Drive Community Council was notified of proposed disposal through the Ordinary category of Administrative Order 50. Non-profit organizations can and do participate in these offerings but there is no provision for a less than market value sale. The same notification was issued in June of 2016¹ but did not proceed to Regional Council. Instead, a disposal recommendation under the Community Interest category of Administrative Order 50 was advanced to Regional Council under the Indoor Ice Surface Review². Council approved the staff recommendation and an open Call for Submissions was issued December 9, 2017.

The new 4-Pad Arena in Dartmouth (RBC Centre) is now operational.

DISCUSSION

As of the application deadline of June 4, 2018, one (1) proposal was received. The offer of purchase is from Soccer Nova Scotia (“the Society”). The Society’s offer includes a purchase price of \$42,500+HST with a requested closing date of January 31, 2019. The proposal was evaluated by an inter-departmental review team and scored 52/100 based on the information provided by the applicant.

The review concluded that the operating and capital plans of the Society, as filed in its application, are insufficiently rigorous to ensure a viable, ongoing operation. There is a significant risk that the operations cannot be maintained without the Society re-thinking their plans. In addition, the introduction of another soccer facility in Dartmouth (after the filing of the Society’s application) represents a particular area of concern.

The review further concluded that both the compensation and the primarily specialized use of the facility did not maximize opportunities presented by the scale, location, and configuration of the subject property.

The inter-departmental review is included as **Attachment 1** and a site map and photograph is included as **Attachment 2** of this report.

In accordance with Schedule 1, Section 17 of Administrative Order 50, Council’s consideration includes:

¹ Report to Harbour-East Marine Drive Community Council, Approval Package No.05.16 dated August 18, 2015, and Technical Review Package No.70.15 dated June 2016.

² Meeting of Regional Council June 20, 2017, Indoor Ice Surface Review, dated June 9, 2017, p.7.

- (a) the recommendation from the staff team;
- (b) the market value of the property;
- (c) the planning documents for the area of the property, including the Municipal Planning Strategy and Land Use By-law;
- (d) the benefit of any cost savings to the Municipality;
- (e) the consequences or benefit to the community or the Municipality as a whole; and
- (f) the beneficial consideration of a less than market value sale against the benefit to the Municipality of selling the property at market value.

In regard to these criteria:

- the 2018 assessed value of the subject property is \$4,063,900.
- the appraised market value is included in a separate In Camera Information Report³.

FINANCIAL IMPLICATIONS

If the staff recommendation is approved, HRM will not avoid annual holding costs projected to be up to \$100,000 for a *vacant* building but these could be recovered through a market sale. Although this recurring annual cost could be reduced by the demolition of a building that is 45 years old and in need of re-capitalization, the 2018 estimated cost of demolition is \$249,600 and represents an unbudgeted expense that excludes any unforeseen environmental issues (for example, removal of the chiller system and piping).

Net proceeds from the sale of the property would be deposited into the Strategic Capital Reserve, Q606, as approved through the Long Term Arena Strategy Consolidation and the Strategic Capital Funding Strategy in July 2014.

RISK CONSIDERATION

Low. The recommendation is in accordance with approved policy for the disposal of surplus real property.

COMMUNITY ENGAGEMENT

A mandatory public information meeting was held on November 22, 2017, at the Dartmouth North Community Centre, 105 Highfield Park Drive, Dartmouth. The meeting was publicized in a newspaper advertisement Saturday, November 4, 2017. The purpose of the meeting was to inform members of the public on the legislated process to purchase municipal property and specific details about 10 Monique Avenue, Dartmouth. Ten (10) people attended.

A Call for Submissions was issued Saturday, December 9, 2017, with an application deadline of June 4, 2018. The notice included a site visit January 30, 2018. Six (6) people attended.

ENVIRONMENTAL IMPLICATIONS

The 2010 Capital Plan, Building Condition and Energy Assessment Report was shared in its entirety with proponents in the formal Call for Submissions. The report notes “The review did not include an intrusive investigation of wall assemblies, ceiling cavities or any other enclosed spaces. No physical tests were conducted and no samples of building materials were collected to confirm or support the findings presented in the report unless otherwise noted...” (p.7). Independent environmental testing was not undertaken.

³ In Camera Report to Regional Council, Administrative Order 50 Disposal of Surplus Real Property – Appraised Value of PID#0006264 10 Monique Avenue, Dartmouth, dated August 21, 2018.

ALTERNATIVES

1. Regional Council could amend the motion and re-categorize the property as either Economic Development or Inter-Government Transfer.
 - (i) Economic Development: allows for joint submissions and collaborative ventures, including non-profit/government and non-profit/for-profit initiatives and sold for market value; or
 - (ii) Intergovernmental Transfer: property conveyed to another level of government to be used for a public purpose. Council may determine the terms of conveyance, including monetary compensation, property exchange, or a combination thereof.

If Council selects this option, item two of the motion would be amended to read:

Re-categorize the property from Community Interest property to (Economic Development in accordance with Clause 2(2)(a) or Intergovernmental Transfer in accordance with clause 2(2)(f) of Administrative Order 50); and

2. Regional Council could direct the CAO to submit a Supplementary Recommendation to establish the key terms and conditions of sale, including but not limited to a Buy-Back Agreement, closing costs, and any unbudgeted financial implications if a portion of the site were retained by the Municipality.

If this option is selected, Council could pass the following motion:

That Halifax Regional Council direct the CAO to negotiate with Soccer Nova Scotia key terms and conditions for the sale of the property, including a Buy-Back Agreement, closing costs, and any unbudgeted financial implications if a portion of the site were retained by the Municipality, and return to Council for consideration of the resulting terms.

ATTACHMENTS

Attachment 1 - Inter-Departmental Review.
Attachment 2 - Site Map and Photograph.

A copy of this report can be obtained online at halifax.ca or by contacting the Office of the Municipal Clerk at 902.490.4210.

Report Prepared by: Peta-Jane Temple, Team Lead Grants & Contributions, Finance & Asset Management
902.490.5469;

Inter-Departmental Review

Proponent Profile: Incorporated as a non-profit society in 1977, Soccer Nova Scotia promotes the development and governance of soccer in Nova Scotia. The membership comprises District Associations that are registered non-profit societies, inter-district and provincial leagues, associate member organizations, individual life members recognized for their service to the Association, and regional referee associations. The organization's operating revenues are primarily from individual player registration fees and provincial government funding, supplemented by administrative fees and investment income, with rental income from the operation of an indoor soccer facility located on land leased at less than market value from the Municipality. Of note, the society's By-laws are silent on the disposition of assets upon dissolution.

Although Soccer Nova Scotia wholly owns a subsidiary, Soccer Nova Scotia Training Centre Incorporated, a limited company with a shareholder interest, the applicant has provided written confirmation that the related party would not be involved in the ownership or operation of the proposed new facility¹.

Intended Use: The society propose conversion of the building for use as an indoor turf facility, primarily for indoor soccer instructional and competitive programming with access during non-peak times for other sporting and social activities. Hourly rental rates will vary but based on projected operating costs for the first year of operation the minimal hourly rental rate is projected to be \$20 with a "peak time" rental rate of \$120.

The applicant's stated preference is for HRM to retain and refurbish the outdoor amenities (de-commissioned tennis court, skateboard ramp, and playground) with a \$50,000 contribution from the society. Retention of a portion of the site by HRM as preferred by Soccer Nova Scotia is considered problematic. If HRM had identified an operational requirement for the de-commissioned tennis court and the playground that portion of the site could have been sub-divided *prior* to a public Call for Submissions. A reduction in the land area, including any public parking retained in relation to municipal outdoor public amenities, would have reduced the value of the property offered for sale. Conceivably, a lower market value unencumbered by 'public' amenities could have enhanced affordability and elicited more submissions representing a broader spectrum of use(s).

Likewise, if HRM were to sell the land but retain an interest in the tennis court and playground (with or without use of an ancillary parking area) through a formal license agreement with the Purchaser the Municipality will incur unbudgeted costs including one-time capital costs for refurbishment and equipment, plus annual maintenance, insurance, and property tax. As a licensee HRM is not the property owner, therefore, a municipal expenditure to refurbish amenities *after* conveyance would constitute a contribution outside an existing municipal grant program. Typically, such awards are the subject of a Contribution Agreement.

Proposed Capital Plan: The society's re-development of the facility is projected to cost \$1,074,500 as shown below in Table 1.

¹ Email from Soccer Nova Scotia Executive Director to HRM staff dated July 27, 2018.

Table 1. Estimated Capital Costs: “Upgrades”	
Item	Projected Cost
Turf installation (Turf Master)	\$250,000
Replacement Roof	\$280,000
Replacement Metal Siding	\$105,000
Overhead Door Upgrades	\$5,500
Repairs to Water Pipes	\$5,000
Fuel Tank Replacement	\$3,000
Sprinkler System Repairs	\$3,000
Replacement Wood Siding	\$3,500
Parking Lot Upgrades	\$50,000
Lighting Upgrades	\$30,000
Heating Upgrades	\$75,000
Renovations to Building for Turf Use	\$75,000
Upgrades to Playground and Tennis Courts (cost-share with HRM) ¹	\$50,000
Sub-Total	\$934,500
Contingency (~15%)	\$140,000
Total	\$1,074,500

Notes to Table 1.

1. Unbudgeted municipal expense. Capital cost projections not included.
2. HST not itemized and presumed included in rounded values.
3. The projected capital costs do not identify an itemized cost for removal of the ice plant and piping system which could contain contaminants or require special precautions and disposal.
4. The independent appraisal of market value assigned no value to site improvements: the asphalt appears to be near the end of its economic life and the playground might be removed by a Purchaser if viewed as a potential insurance liability.

According to the society’s submission, they propose funding the purchase and upgrades using reserves and an interest-bearing mortgage over a 15-year term. Further, the submission states “Although not included in the proposal, Soccer Nova Scotia will be approaching the federal and provincial governments for financial assistance to cost share the capital costs” (program sources unconfirmed). Presumably, this government funding would be directed towards retrofit and upgrades, not the purchase. A less than market value sale for a property of the value of the former Gray Arena would typically be encumbered by a Buy-Back Agreement and HRM would have to approve financing secured by the asset.

Operating Budget Projections: The projected annual operating budget is predicated on self-generated revenues from hourly turf rentals during “peak hours” (approximately 90% of total projected revenue) as compared to “other rentals (approximately 7%) as shown below in Table 2. The society anticipates that both revenues and expenses will increase by 3% per annum over the first five (5) years.

Table 2. Proposed Operating Costs
Year 1 of Operation

Revenue	Projected Revenue
Projected rentals (60 hours per week at \$120 at 35 weeks)	\$252,000
Advertising	\$4,000
Other Rentals	\$20,000
Total Revenues	\$276,000
Expenses	Projected Cost
Bank Charges	\$2,000
Insurance	\$6,000
Promotion	\$1,000
Office Expenses	\$6,000
Repairs and Maintenance	\$20,000
Power	\$20,000
Water	\$3,000
Heat	\$20,000
Wages	\$72,000
Mortgage	\$88,000
Reserve Fund	\$25,000
Total Expenses	\$273,000
Projected Deficit (Year 1)	(\$3,000)

Notes to Table 2.

1. HST not itemized and presumed included in rounded values.
2. The sale of naming rights was not included as a revenue source but could represent a means to either reduce debt payments and/or sustain a reserve fund.
3. Projected revenues of 35 weeks for the first year of operation an allowance for facility closure for retrofit.
4. Projected cost of outdoor amenities not included (maintenance, equipment repair/replacement).

In addition to the opportunity cost of a less than market value sale, the intended use as proposed could represent on-going costs to the Municipality. In addition to prospect of retaining and refurbishing certain outdoor recreational amenities, the Municipality might be expected to supply or contribute to the purchase of equipment as evidenced by the applicant's response to questions of clarification regarding access and the provision of equipment for users other than soccer: "Soccer Nova Scotia in partnership with HRM Recreation Department, New Horizons and the Provincial Department of Wellness would supply equipment which could be stored at the facility"².

The projected operating budget does not include payment of property tax, including interim billing pending any application to the municipal tax relief program. Based on an assessed value of \$4,063,900 and a non-residential use, property taxes for 2018 are estimated to be \$135,000 (2018 values).

Administrative Order 50 – Community Interest Category

Consideration under the Community Interest category is a two-step process to determine the feasibility of a proponent's proposal. The first step requires a technical evaluation by a staff team followed by overall consideration by Regional Council using different criteria.

Staff Evaluation Results

² Email from Soccer Nova Scotia Executive Director to HRM staff dated July 27, 2018.

An inter-disciplinary team of staff was convened to evaluate submissions. Led by Finance, the team included Finance & Asset Management (Grants & Contributions/Financial Policy & Planning/Real Estate), Planning & Development, Parks & Recreation. Additional technical information was provided to the team by Planning & Development in relation to development approval requirements. In accordance with sub-clause 4(1)(f) of Administrative Order 50, staff evaluates submissions on four (4) criteria:

- Content compliance
- Viability
- Compensation
- Benefit to the Municipality

Key Findings:

1. **Content Compliance** – The application met most of the requirements as set out in Schedule 14(e) of *Administrative Order 50*: closing costs were omitted and Buy-Back Agreements terms were not stated.
2. **Viability** – Soccer Nova Scotia and Soccer Nova Scotia Training Centre Inc (“SNTC”) have significant assets and liquidity and an established record in operating a similar facility in HRM. However, the strength of both the projected operating and capital budgets cannot be confirmed. For example, operating costs do not appear to include refuse collection, cleaning/sanitation supplies, or snow and ice removal unless included in a generic category “Repairs and Maintenance”. The omission of a budget allocation towards real property tax could also adversely impact viability in the first year of operation given that tax relief is a separate application and evaluation process: awards cannot be issued retroactively.
3. **Compensation** – The offer of \$42,500 is significantly below both the 2018 assessed and appraised values.
4. **Benefit to the Municipality** – Notwithstanding that the retention and/or expansion of recreational amenities in the Dartmouth North area is of interest to the Municipality, the intended use as an indoor soccer facility serves primarily soccer teams, leagues and affiliated events as evidenced by access for “other rentals” during non-prime time. The review considers the opportunity cost to HRM, in addition to the potential for recurring annual costs in relation to amenities and/or equipment, may represent under-utilization of a strategic opportunity site.

In summary the submission scored 52/100 based on the information provided by the applicant. The review concluded that both the compensation and the primarily specialized use of the facility did not maximize opportunities presented by the scale, location, and configuration of the subject property.

Postscript

Following the Call for Submission deadline for 10 Monique Avenue, Dartmouth, the former Bowles Arena was sold to a private interest. If, as proposed by East Coast Varsity, a private school that combines academics with sports, a domed indoor turf complex is constructed at this location there could be implications for the viability of Soccer Nova Scotia’s intended use for the former Gray Arena.

Although the completion of East Coast Varsity’s proposed indoor turf facility cannot be substantiated at this time, it would bring the indoor turf inventory to two (2) in the Dartmouth area, both of which would offer hourly rentals to sports leagues and clubs. The second indoor turf venue is owned by the Newbridge Academy on Commodore Drive opposite the Harbour East All Weather Field. The indoor turf is operated outside regular school hours by Soccer Nova Scotia under agreement with the school.

Further to a request for clarification, Soccer Nova Scotia is unable to substantiate the impact of the proposed East Coast varsity facility. However, in an email to staff dated November 30, 2018, Soccer Nova Scotia inquired as to whether an extension of six (6) months was possible while they monitor the

progress of the proposed indoor turf facility. Because the request could be interpreted as only one (1) submission and/or that the Soccer Nova Scotia proposal as submitted might be acceptable, staff advised in writing that there are no provisions in policy for extensions.

